

MINUTES OF THE
UTAH TAX REVIEW COMMISSION
Friday, May 19, 2006 – 1:00 p.m. – Room W125 House Building

Members Present:

Mr. M. Keith Prescott, Chair
Sen. Brent Goodfellow
Sen. Lyle W. Hillyard
Rep. Wayne Harper
Rep. Rosalind J. McGee
Mr. Larry Barusch
Mr. Mark K. Buchi
Ms. Janis A. Dubno
Ms. Kathleen Howell
Mr. Bruce Jones
Mr. Dixie Leavitt

Members Absent:

Mr. David Crapo, Vice Chair
Dr. Gary Cornia
Commissioner Bruce Johnson

Staff Present:

Mr. Phillip V. Dean, Policy Analyst
Mr. Leif G. Elder, Research Analyst
Mr. Bryant R. Howe, Assistant Director
Ms. Angela D. Oakes, Associate General Counsel
Ms. Rebecca L. Rockwell, Associate General Counsel
Mr. Mitch Park, Law Clerk
Ms. Phalin L. Flowers, Legislative Secretary

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. TRC Business

Rep. Harper called the meeting to order at 1:05 p.m.

Commissioner Marc Johnson, Tax Commission (Utah State Tax Commission), was recognized as being in attendance in place of Commissioner Bruce Johnson.

MOTION: Mr. Buchi moved to approve the minutes of the April 21, 2006 meeting. The motion passed unanimously with Sen. Goodfellow and Chair Prescott absent for the vote.

Rep. Harper turned the chair to Chair Prescott.

2. Sales and Use Tax Exemption

Mr. Howe distributed and discussed minutes from the November 9, 2001 TRC meeting. He referred to a motion by Sen. Hillyard by which the TRC adopted a policy to annually send to the governor, the Legislature, and the media, the estimates of the lost revenue due to each sales and use tax exemption. These estimates are annually prepared by the Tax Commission and published in its annual report. He also distributed and discussed "Sales and Use Tax Exemptions to Review in 2006."

Ms. Rockwell introduced Mitch Park, Law Clerk. Mr. Park distributed and discussed "Exemption for Property Upon Which a Sales or Use Tax Was Paid to Some Other State."

Rep. McGee asked which types of transactions come under this exemption. Mr. Park replied that if a taxpayer purchases an item in another state and then moves that item to Utah, the taxpayer would not be subject to a use tax if the tax in the other state was higher than the use tax in Utah. However, if the Utah use tax is higher than in the original state, the taxpayer is technically liable for the difference.

Mr. Barusch asked the staff or the Tax Commission to explain any problems with this exemption. Comm. Johnson replied that there have been a few problems involving this exemption with the purchase of vehicles in other states.

Mr. Lee Gardner, Salt Lake County Assessor, explained to the TRC that there is a property tax imposed on transitory personal property for the length of time the property is in Utah.

MOTION: Mr. Barusch moved to permanently retain the exemption for property upon which a sales or use tax was paid to another state. The motion passed unanimously.

MOTION: Ms. Howell moved to direct staff to draft language that is consistent with Tax Commission practice to exempt from sales and use taxation transactions involving property upon which a Utah sales and use tax was not paid if that property is brought into the state from another state. The motion passed unanimously.

3. Severance Taxes on Oil and Gas

Ms. Oakes distributed and discussed "Funding, Structures, and Uses of Trust Funds in Other States." She discussed various trust funds in other states and how those funds are structured and used.

MOTION: Sen. Hillyard moved to ask the governor, in preparing his budget recommendations for fiscal year 2007-08, to set aside the amount of revenue from state severance taxes on oil and gas that would have been deposited in the state trust fund had 2006 General Session S.J.R. 2, "Resolution Enlarging Revenues and Assets in State Trust Fund," been approved by the Legislature and the electorate and 2006 General Session S.B. 202, "Use of Oil and Gas Tax Revenue," been enacted into law. The motion passed unanimously.

Mr. Howe distributed and discussed "Disposition of Revenues from Mineral Production on Federal Land in Utah and Certain State Lands Acquired from the Federal Government," "Distribution of Revenues from Mineral Resource Activity on Federal Lands in Utah - FY 1990 to 2005," "Permanent Community Impact Fund Board," and "Permanent Community Impact Board Revenues." He introduced Ms. Terrah Anderson from the Governor's Office of Planning and Budget.

Mr. Elder distributed and discussed "Revenues by Oil and Gas Producing County (FY 1991 to FY 2004)" and "Table 1: Utah Oil and Gas Producing Counties -- Total Revenues."

Mr. David Haslam, Uintah County Commissioner, explained to the TRC that although oil and gas production has declined in recent years, there are still large quantities of water that are byproducts of the extraction process that are trucked away from oil and gas fields.

Ms. Anderson explained the purpose and goals of the Natural Resources Extraction Impact Working Group. She said that the Working Group is chaired by Mr. Gayle McKeachnie, Governor's Office of Rural Economic Development. Mr. Buchi recommended that the TRC not duplicate what this Working Group is studying but rather wait for a final report and then determine if certain issues require further review.

MOTION: Sen. Hillyard moved to ask the Natural Resources Extraction Impact Working Group to update the TRC with written material and to present its final report and recommendations at the August 18, 2006 TRC meeting. The motion passed unanimously.

Mr. Les Prall, Department of Community and Economic Development, explained "Permanent Community Impact Fund Board" in more detail.

Rep. Harper said that the state should prepare now for the inevitable decline in both the production and price of oil and natural gas.

4. Property Taxes on Business Personal Property

Ms. Oakes distributed and discussed 2006 General Session H.J.R. 1 "Resolution Regarding Property Tax on Personal Property" and 2006 General Session H.B. 338 "Property Tax Exemption for Business Personal Property."

Mr. Lee Gardner, Salt Lake County Assessor, and Mr. Allen Tippetts, Personal Property Division Director, Salt Lake County Assessor's Office, distributed and discussed "Utah Personal Property Assessment." They explained an optional program in Salt Lake County that they believe simplifies taxpayer compliance with the property tax on personal property owned by a business. Under this option, a taxpayer may elect to: declare that the value of the taxpayer's property is below a certain threshold amount and then pay the property tax on that threshold amount; or make an accounting of the taxpayer's personal property and pay the property tax imposed on the basis of that personal property's actual value. Mr. Gardner and Mr. Tippetts also explained the administrative issues associated with threshold filing and emphasized that the election to use this option is solely at a taxpayer's discretion.

Comm. Johnson said that under H.B. 338 a taxpayer must still file a return and account for all personal property. He also said that it is not clear how the situs of the property and the \$3,500 exemption amount will be determined.

Mr. Barusch asked the TRC staff to review any constitutional issues that might be associated with the threshold filing program described by Mr. Gardner and Mr. Tippetts.

5. Other Business / Adjourn

MOTION: Ms. Howell moved to adjourn the meeting. The motion passed unanimously with Rep. Harper and Mr. Buchi absent for the vote.

Chair Prescott adjourned the meeting at 4:33 p.m.